IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 3441 of 1993

Between:

The Huzurabad Handloom Weavers Cooperative Production and Sales Society Limited, rep.by its paid Secretary M.Ramulu S/o.Lachaiah, aged 52 years, R/o.Huzurabad, Karimnagar District.

..... PETITIONER

AND

1. The Authority under Minimum Wages Act and

Assistant Commissioner of Labour, Karimnagar, Karimnagar Dist.,

2. Assistant Labour Officer, Huzurabad, Karimnagar District

3. Assistant Director of Handlooms and Textiles, Karimnagar,

Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of certiorari calling for the records relating to and in connection with the order of the Authority under Minimum Wages Act in M.W.Case No.121/92 of Assistant Commissioner of Labour, Karimnagar dated 6-2-1993 and quash the same as illegal and void and consequentially to direct the 1st respondent to refund the amount collected from the petitioner society pursuant to the above said order with bank interest and to pass such other order or orders.

Counsel for the Petitioner:MR.K.Ananda Rao

Counsel for the Respondents: 1 & 2 : GOVERNMENT PLEADER FOR LABOUR

Counsel for Respondent No.3: None appeared

The Court made the following :

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ORDER:

1. The order passed by the Assistant commissioner of Labour, Karimnagar and the Authority Under Minimum Wages Act dated 6.2.1993 is assailed in this writ petition. The learned authority allowed the claim for an amount of Rs.6,678/- on the ground that there was difference in payment of minimum wages fixed by the Government and actually paid.

2. The learned Counsel for the petitioner, however, submits that the designation as claimed by the Assistant Labour Officer is not correct and the employees were not appointed as office boys or supervisors and that when the designation itself is disputed, the authority ought not to have decided the matter without first deciding respective designations. The learned Counsel also submits that in fact all the persons are working as attenders for supplying yarn to the members and collecting finished products and, no minimum wages are fixed for this type of employment. Even otherwise, the minimum wage of the lowest paid employee in the cooperative society was fixed at Rs.675/- and taking the cumulative effect of the payment made to all the persons, the total amount exceeds the amount fixed under the Minimum Wages Act. Under those circumstances, the learned Counsel would submit that the order of the authority is liable to be set aside.

3. Heard the learned Government Pleader.

4. The authority on the basis of the designations made by the Assistant Labour Officer has allowed differential claim between the minimum wages fixed and actual wages paid. The question that arises for consideration is whether the employees were employed in the respective capacities as stated by the Assistant Labour Officer, Huzurabad. He only relied on the Office Order - Ex.P2 and it is not a conclusive proof of factum of their designation with reference to the work they performed.

4. Under those circumstances, I am of the considered view that the matter is required to be considered afresh taking into account the exact designation of the employees with reference to the orders passed by the Cooperative Society. Therefore, the impugned order is set aside and the matter is remitted back to the 1st respondent and the 1st respondent shall issue notice to the parties concerned and decide the matter according to law, within a period of four months from the date of receipt of a copy of this order. The parties shall also be permitted to adduce evidence, if they so choose.

5. The writ petition is accordingly allowed. No costs.

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28.10.2004

bsv

ASSISTANT REGISTRAR

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SECTION OFFICER

To

1. The Authority under Minimum Wages Act and

Assistant Commissioner of Labour, Karimnagar, Karimnagar Dist.,

2. The Assistant Labour Officer, Huzurabad, Karimnagar District

3. The Assistant Director of Handlooms and Textiles, Karimnagar,

Karimnagar District.

4. 2 CCs to Government Pleader, High Court Bldgs., A.P., Hyd (OUT)

5. 2 CD copies